

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SHANNON M. JOHNSTON,

Plaintiff,

v.

CAROLINE W. COLVIN, Acting
Commissioner of Social Security,¹

Defendant.

Case No. 12-5462-RBL-KLS

REPORT AND RECOMMENDATION

This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule MJR 4(a)(4) and as authorized by Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on the stipulated motion for remand. (ECF #17). After reviewing the parties' stipulated motion and the remaining record, the undersigned recommends that the Court grant the parties' motion, and remand this matter to the Commissioner for further proceedings.

This Court recommends that on remand, the Agency will further develop the record, evaluate whether Plaintiff meets Listing 12.05C, and consider the possibility of issuing a fully favorable decision for the period between January 29, 2009, and January 28, 2010. If the Agency does not issue a fully favorable decision, a de novo hearing will be held before an

¹On February 14, 2013, Carolyn W. Colvin became the Acting Commissioner of the Social Security Administration. Therefore, under Federal Rule of Civil Procedure 25(d)(1), Carolyn W. Colvin is substituted for Commissioner Michael J. Astrue as the Defendant in this Suit. **The Clerk of Court is directed to update the docket accordingly.**

1 administrative law judge (ALJ); Plaintiff may raise any issue; and the ALJ will take testimony
2 from the claimant and perform the sequential evaluation process, considering all evidence of
3 record, and obtaining medical expert testimony and supplemental vocational expert testimony as
4 necessary.

5 Upon proper presentation, this Court will consider Plaintiff's application for costs and
6 attorney fees under 28 U.S.C. § 2412(d) and 42 U.S.C. § 406(b).

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8 Given the fact of the parties' stipulation, the Court recommends that the District Judge
9 immediately approve this Report and Recommendation and order the case **REVERSED** and
10 **REMANDED**. A proposed order accompanies this Report and Recommendation.

11 DATED this 5th day of March, 2013.

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14 Karen L. Strombom
15 United States Magistrate Judge
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